

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JEFFREY ALLEN NYE,

Petitioner,

Case Number: 07-CV-12890

v.

HONORABLE DENISE PAGE HOOD

RAYMOND BOOKER,

Respondent.

**OPINION AND ORDER SUMMARILY DISMISSING
PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner Jeffrey Allen Nye is a state inmate currently incarcerated at the Ryan Correctional Facility in Detroit, Michigan, pursuant to convictions for first-degree felony murder and second-degree murder. He has filed a *pro se* petition for a writ of habeas corpus challenging these convictions. The Court finds that the petition is duplicative of another petition pending in this District and, therefore, dismisses the petition.

On December 7, 2006, Petitioner filed a habeas corpus petition in this Court, challenging his convictions for first-degree felony murder and second-degree murder. That petition was assigned to the Honorable Lawrence P. Zatkoff. *See Nye v. Booker*, No. 2:06-cv-15425 (E.D. Mich.). The challenged convictions were rendered in Oakland County Circuit Court. In that petition, Petitioner presents the following claims: (i) inculpatory statements made to jailhouse informants improperly admitted; (ii) evidence regarding origin of materials found in victim's undergarments improperly excluded; (iii) ineffective assistance of trial and appellate counsel; and (iv) insufficient evidence presented to sustain jury verdict. That matter remains pending.

On June 26, 2007, Petitioner filed the pending petition for a writ of habeas corpus. Petitioner challenges the same convictions challenged in the earlier-filed petition and presents the same claims presented in that petition.

“[A] suit is duplicative if the claims, parties, and available relief do not significantly differ between the two actions.” Serlin v. Arthur Andersen & Co., 3 F.3d 221, 223 (7th Cir.1993) (internal quotation marks and citations omitted). This petition challenges the same convictions challenged in the petition currently pending before the Honorable Lawrence P. Zatkoff and raises claims that are identical to the claims raised in the earlier-filed petition. Therefore, the instant petition is duplicative and shall be dismissed. *See* Davis v. U.S. Parole Commission, No. 88-5905, 1989 WL 25837 (6th Cir. 1989) (holding that a district court may dismiss a habeas petition when it is duplicative of a pending habeas petition); Marks v. Wolfenbarger, No. 2:06-cv-14325, 2006 WL 2850340, *1 (E.D. Mich. Oct. 3, 2006) (Edmunds, J.) (same); Fuson v. Harry, No. 06-13211-BC, 2006 WL 2421639, *1 (E.D. Mich. Aug. 22, 2005) (Lawson, J.) (same). To the extent that Petitioner wishes to raise additional claims not already before the court in the earlier-filed petition, Petitioner may do so by seeking leave to amend that petition in accordance with the requirements of Federal Rule of Civil Procedure 15.

Accordingly, IT IS ORDERED that the petition for a writ of habeas corpus [**Docket No. 1, filed July 11, 2007**] is DISMISSED.

s/ DENISE PAGE HOOD
DENISE PAGE HOOD
UNITED STATES DISTRICT JUDGE

DATED: August 9, 2007

I hereby certify that a copy of the foregoing document was served upon counsel of record on August 9, 2007, by electronic and/or ordinary mail.

S/William F. Lewis
Case Manager